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FISCAL IMPACT REPORT



SPONSOR: Tsosie DATE TYPED: 01/25/02 HB _____

SHORT TITLE: Law Enforcement Safe Pursuit Act SB 138

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			\$300.0	Recurring See Narrative	General Fund

SOURCES OF INFORMATION

State Highway and Transportation Department (SHTD)
 Department of Public Safety (DPS)
 Attorney General's Office (AG)

SUMMARY

Synopsis of Bill

SB 138 relates to high-speed chases by police. Every law enforcement agency must formulate a policy regarding high-speed pursuits.

SB 138 imposes a pyramidal reporting structure. Each officer "involved" in a high speed pursuit is required to submit a written report to his supervisor "detailing his participation" in the pursuit. The officer "in charge of" the high-speed pursuit is required to complete a comprehensive report of the pursuit. No deadline is imposed for these reports, but within 30 days of the pursuit, the agency is required to submit a form report describing the pursuit to the Traffic Safety Bureau of the Highway and Transportation Department. Each year, the Traffic Safety Bureau is required to compile data regarding high-speed pursuits and include it in its annual uniform accident report. In addition, the Traffic Safety Bureau is required to prepare a one-time study by December 31, 2002, analyzing high-speed pursuits during the previous three years, and to submit that report to the director of the Law Enforcement Academy.

SB 138 directs the Law Enforcement Academy Board to develop and implement a course of study in high-speed pursuits for students in the Academy. The course is to include "adequate" consideration of each of 14 enumerated subjects relating to high-speed pursuits. In addition, every certified

law enforcement officer in the state is required to take an 8-hour in-service course on high-speed pursuits every 24 months.

Significant Issues

The AG has provided the following:

If a law enforcement agency declines to initiate or continue a high-speed pursuit based on the policies set forth in SB 138, the agency may have missed its chance to capture a dangerous person. Citizens may subsequently be injured or killed by the dangerous person, for example if the person is violent, drunk or a terrorist.

SB 138 imposes ongoing paperwork requirements on every law enforcement agency in the state. The requirement that all officers "involved" in a pursuit submit a written report would seem to include those whose involvement was peripheral, such as, for instance, those directed to perform traffic control. The requirement that a separate comprehensive written report be prepared by the officer in charge of the pursuit will require a degree of repetition, as will the creation of yet another report by the agency on a form approved by the Bureau. The time required to prepare all these reports would have some impact on law enforcement program measures.

Duplicative reporting would also mean fewer officers on the road, which in turn would impact performance measures, and more broadly might have a negative effect on crime control.

SB 138 requires that the Traffic Safety Bureau make a one-time report covering three years of high-speed pursuits, based on a survey of a "representative sample" of law enforcement agencies. The Bureau is thereafter required to prepare annual reports. These requirements would necessitate a reallocation of resources within the Bureau.

All of these written reports would be discoverable in any lawsuit filed against the state and could be introduced into evidence against the state.

The requirement that eight hours of in-service training be devoted to high-speed pursuits presumably means that eight fewer hours would be spent on other subjects.

SB 138 goes into considerable detail concerning the appropriate policies for initiating and continuing a high-speed pursuit. By permitting such pursuits only in narrowly circumscribed circumstances, the discretion of officers on the ground or their supervisors would be curtailed. SB 138 also requires consideration of factors that are unlikely to be known to police, particularly if the car is stolen, such as the identity of the driver and his "possible destination and previous activities".

DPS states that SB 138 will require that DPS allocate resources to collect data, develop training, and implement policy related to law enforcement pursuits. The nature of law enforcement pursuits is very complex, and while there is no coordinated collection of data statewide, there are training standards already in place that address this issue and many of the law enforcement agencies in the state currently have policies in place that adequately address the issue.

FISCAL IMPLICATIONS

The SHTD estimates that SB 138 will result in the following costs to the Traffic Safety Bureau:

One-time costs	
1. Development of a data collection system	\$11,000
2. Purchase data collection system hardware/software	33,000
3. Development of the study and annual report	<u>17,000</u>
Subtotal	\$61,000
Recurring costs	
4. Maintenance of data collection system	6,000
5. Data collection and entry	33,000
6. Study – conduct, analysis and delivery	55,000
7. Delivery of annual report	11,000
8. Full-Time employee (salary & benefits)	48,000
Subtotal	<u>\$153,000</u>
Grand Total for SHTD	\$214,000

The DPS has provided the following estimated costs to the Training Division:

A one-time cost to develop a basic and in-service curriculum of	\$15,000
Recurring costs of basic and in-service training of	<u>\$71,000</u>
Grand Total for DPS	\$86,000

The estimated costs for both the SHTD and DPS are one-time costs of \$76,000 and recurring costs of \$224,000.

ADMINISTRATIVE IMPLICATIONS

Since the SHTDD is not charged with this enforcement activity it would be difficult for them to require enforcement agencies to send the information required in the bill.

OTHER SUBSTANTIVE ISSUES

DPS has raised the following issues:

- SB 138 will require a twenty-year veteran officer to attend the same training program during his or her career at least ten times. In addition, the requirement is placed upon all certified officers, regardless of rank or assignment. Many officers will never become involved in a high-speed pursuit because of their rank or assignment. However, it is recognized that every officer does have that potential exposure.
- In addition, the 40 hour in-service training requirement established in current law and is further detailed in a New Mexico Law Enforcement Academy Board rule that requires 12 hours of maintenance training, 20 hours of advanced training, and 8 hours of Board mandated training.

Dedicating 8 of the 40 hours to pursuit training every two years appears to be an excessive amount considering all the other issues that face law enforcement. Of equal concern are the legal updates that officers should be aware of, the use of force decision making and application process, critical incident response training, domestic dispute response training, and the current focus on terrorism and weapons of mass destruction response. There are many critical areas that officers should be trained in on an ongoing basis, yet the resources to develop, provide and attend this training are minimal.

- In recent years, law enforcement training has become the focus of lawsuits that often times hinge on how the curriculum was developed. According to the International Association of Chiefs of Police, defensible curriculum is established by validated research and scientific method. Curriculum has been found not to be defensible if it was determined by fiat or politics. Establishing a specific hourly requirement for Basic and In-Service Training in this subject leaves the state vulnerable to litigation that it cannot defend.
- There is a loophole in this legislation and its' intended outcome. Currently, an officer may work in a commissioned law enforcement position for 12 months without receiving training or certification. It is often the young and inexperienced officers that engage in high-speed pursuits. There are several instances in New Mexico where a non-certified officer has become involved in a pursuit that ended with tragic consequences. This legislation would not address those officers that are currently allowed to work up to 12 months in a commissioned capacity without being trained or certified.

DW/ar